

Kimball, Tirey & St. John LLP

Seven Events that May Require Changes to Your Trust

Lori Bolander, Esq.

November, 2015

If you have an estate planning trust, certain events may require changes to it. If you experience any of the following, consider whether changes should be made to your trust:

1. **Death.** If a key person in your trust dies, an amendment may be necessary. Ideally, your trust should identify backup trustees, and specify who will inherit if a primary beneficiary passes away before the settlor. If a trustee or beneficiary dies, review your trust to determine whether an alternate is identified, or whether an amendment is necessary.
2. **Divorce.** If you and your spouse have a joint trust and you separate, the joint trust should be revoked and new wills, advanced health care directives and powers of attorney should be drafted and executed as soon as possible. Divorce can also affect named guardians of your minor children – if you have named a married couple as joint guardians and they separate and/or divorce, you should change the appointment of guardians.
3. **Birth.** A birth in your family can affect your estate plan, even if it is not the birth of your child. You may have made provisions for nieces, nephews, godchildren, cousins or grandchildren in your trust. If you have a birth in your family, review your trust to ensure that the birth does not affect your distribution or alternate distribution.
4. **Change in Laws.** Laws change frequently. Changes to your estate plan may be wise if there are significant changes in the law. Kimball, Tirey & St. John LLP attempts to keep its estate planning clients apprised of significant changes in the law.
5. **Change in Taxes.** There have been changes to the estate and gift tax laws in recent years. Estates under \$5.34 million will not owe any estate tax. As a practical matter, that means that under the new rules about 99.5% of all estates will NOT owe any federal gift/estate tax. You can give away \$14,000 to as many individuals as you desire without paying gift tax (up to \$5.34 million). Significant tax changes may warrant changes in your estate plan.
6. **Change in Trustee.** A common trust amendment is to change the successor trustee. Relationships and circumstances change over time and your documents should reflect that. Originally identified trustees may die, their life circumstances may change (i.e. they may become ill, incapacitated, or become so busy that they could no longer devote the time necessary to act as trustee), your relationship with them may change, something may have happened to question whether they are your best choice as a trustee, or you may simply prefer a different trustee. In any of these situations, you may wish to amend your trust to specify a new trustee.

7. **Change in Beneficiary.** A primary reason for a trust amendment is to change beneficiaries. Beneficiaries receive your assets at your death. Death, divorce or birth may affect the distribution of your estate. Also consider the terms of the distribution of your beneficiary. If a beneficiary is young or has a substance abuse issue, you may wish to change the terms of distribution so that they can't go on a wild spending spree with funds that you had hoped would be used for better purposes.

When changes to your trust are necessary, let us know! Writing a letter to your trustee or beneficiaries or writing on the document is not sufficient to amend your trust. We can prepare the amendment necessary to ensure that your wishes are fulfilled.

For questions on this article and assistance with changes to your trust, please contact our office at (800) 574-5587. The Estate Planning Practice Group can assist with wills and probate, trust law and estate planning.

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